

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

Trust Land Management Division



BRIAN SCHWEITZER, GOVERNOR

1625 ELEVENTH AVENUE

DIRECTOR'S OFFICE (406) 444-2074
TELEFAX NUMBER (406) 444-2684

PO BOX 201601
HELENA, MONTANA 59620-1601

January 25, 2010

MEMORANDUM

TO: Bernie Jacobs, Deputy Chief Legal Counsel, DPHHS
Tommy Butler, Trust Lands Attorney, DNRC
FR: Ethan Stapp, Statewide Land Use Planner, DNRC Trust Lands Management Division
RE: Blocks 45, 46, and 53 of the Elder and Parsons Addition to the Town of Boulder, Montana

This letter is in regards to your request dated January 8, 2010 for review of certain title to State land. Specifically, you have requested DNRC to determine that the state has title to the subject property and that it is not being held in trust for a specific purpose.

Facts:

1. Subject Property: Blocks 45, 46, and 53 of the Elder and Parsons Addition to the Town of Boulder, Montana in Section 33, T6N, R4W, Jefferson County, Montana.
2. The subject property is a part of Tract M, a legal tract-of-record created by COS #167146 on file with Jefferson County. Tract M is created from a number of parcels of land vested by deed to the State from various parties starting in 1895. A memo to you from Tommy Butler, dated January 20, 2010, provides a review of these deeds and identifies which of those deeded lands are held in trust. Note that the January 20 memo incorrectly references the legal description of the May 13, 1907 conveyance from M.P. Gilchrist, which would read correctly as:

On May 13, 1907, M.P. Gilchrist conveyed to the State of Montana Lots 4, 5, 6, 7, 8, 13, 14, 15, and 16 in Block 45; 13, 14, 15 and 16 in Block 46; and Lots 9, 10, and 11 in Block 53, all in the Elder and Parson Addition to the Boulder Town site.

3. Mr. Butler's memo concludes that the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, of which Tract M is partly comprised, is trust land; the remainder of the land within Tract M is not trust land.

Discussion:

It would appear that the northern boundary of SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33 is the southern boundary of the Elder and Parsons Addition to the Town of Boulder. The monumentation information provided on the survey of Tract M as well as the survey of the state-owned sewage lagoons to the south and east provide circumstantial evidence to support this assumption. It is also likely that the Elder and Parsons Addition was created from and within